

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
April 12, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, April 12, 2016 at 6:30 PM in Room 208, City Hall.

Members in attendance were:

Gerry Reppucci, Chair
Jack Currier, Vice Chair
J.P. Boucher, Clerk
Mariellen MacKay
Rob Shaw
Kathy Vitale (arrived at 9:30 pm)

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

1. **Sandey Ndegwa (Owner) 3 Kennedy Drive (Sheet A Lot 731) requesting the following: 1) special exception to convert an existing single-family home into a two-family home, and; 2) variance for minimum lot area, 10,000 square feet existing, 14,520 square feet required. RA Zone, Ward 7. [TABLED FROM 3-22-16 MEETING]**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

MOTION by Mr. Currier to take the case off the Table.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

Applicant not present, the Board decided to put the case on hold, and hear it later in the evening.

2. Beazer East, Inc. & City of Nashua (Owners) 2 Hills Ferry Road & "L" Concord Street (Sheet 48 Lots 3 & 8) requesting special exception to work within the 75-foot prime wetland and wetland buffer of the Merrimack River for implementation of the NHDES approved Remedial Action Plan. GI & RA Zones, Ward 3.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Peter Sawchuck, Key Environmental, Inc. Portland, ME. Mr. Sawchuck said that the property is approximately 96 acres. He said that the portion that will be remediated is a smaller area, outlined in blue as shown on the plans, and is less than 20 acres. He said that the site was a former wood treating facility, from the 1930's to the early 1980's, and they treated railroad ties and telephone poles using creosote. He said that the current owner, Beazer East, is under a Consent Decree with the NHDES to clean up the property.

Mr. Sawchuck said that the special exception is for working in the wetlands and the wetland buffer. He said that for the remediation, it briefly consists of constructing a subsurface wall, as identified in the drawings. He said that the wall will help to eliminate the flow of contaminants into the Merrimack River. He said that the river bank is quite steep. He said that they will have to reconfigure the slope in order to implement the mandated remediation.

Mr. Sawchuck said that they will remove contaminated sediments from the river, some soils will be treated, and some soils will be removed, and will build a cover over that to protect the remediation. He said that there will be long-term maintenance. He said the site is about 5,000 feet along the river, and the remediation will occur in about an 880 foot section, and showed a plan view of where it will be, and it's all in the 75-foot buffer.

Mr. Sawchuck introduced Vicki Chase to discuss the mitigation plan.

Vicki Chase, Normandeau Associates, Bedford, NH. Ms. Chase said that to mitigate the impacts, they have an application to the NHDES Wetlands Bureau, and there is an extensive planting plan, and also have a Shoreland Permit, so the planting plan will compensate for the trees that have to be cut down. She said that the planting plan goes above and beyond what is required by the State. She said that Beazer has agreed to a \$211,200 payment to the State's Aquatic Resource Mitigation Fund, it's a fund that gets distributed to other projects through a grant distribution process. She said that they plan on doing some invasive plant removal in Greeley Park in the area where there are some temporary impacts. She said that they meet all the special exception criteria for working in the wetlands and the wetland buffer, and the impacts to the area are unavoidable, and everything will be mitigated. She said that they already received their Shoreland permit, their Alteration of Terrain permit, and the initial DES permit is approved contingent upon paying the fee, and the final design for remediation has been submitted to the Bureau.

Mr. Reppucci referred to the letter from the Lower Merrimack Advisory Committee, and the Conservation Commission letter of approval dated March 7, 2016. He said that there are 5 stipulations of approval, the last one is that an easement be given to the public for public access to the property, and asked what their position on it is.

Mr. Sawchuck said that this is a remediation project, and at this time, didn't feel that it's the right time. He said that they're not averse to considering the easement in the future. He said that part of the property is under agreement with someone else, and they're not at liberty to make obligations on that aspect of the project. He said that the remediation project is going to take several years, as shown in the application, and it's possible that in the future there could be an easement to the property, but don't think it's appropriate at this time.

Mr. Reppucci asked if this issue was brought up at the Conservation Commission.

Mr. Sawchuck said that it was.

Mr. Reppucci asked if the Conservation Commission made it clear that their recommendation required the easement.

Mr. Sawchuck said that their approval is going to be conditioned on an easement, it didn't say when or when it needed to be implemented.

Mr. Reppucci asked Mr. Sawchuck if it is their position that there shouldn't be an easement until the remediation is completed.

Mr. Sawchuck said and/or there is more known about the development will be.

SPEAKING IN FAVOR:

Gene Porter, 77 Concord Street, Nashua, NH. Lower Merrimack River Advisory Committee Chair. Mr. Porter said that they are very enthused about this project, as it's been a burden on the City and the taxpayers for a long time. He believes that the City should be compensated for the financial damage that has taken place by granting an easement that has been recommended by the Conservation Commission. He passed out a summary to the Board members.

Mike Bollinger, Environmental Manager, Beazer East. Mr. Bollinger said that the issue of granting the easement to the property is quite untimely at this point. He said that this is a remediation project, targeted to address environmental concerns. He said that if a future development were to occur, a developer would be in front of the Board at that time to deal with other planning issues, and that would be the proper time to consider some sort of access that the Conservation Commission and others are interested in. He said that at this time, he has a contractual obligation to a developer with a sales agreement that prevents him from encumbering the property, and it would violate the sales agreement. He said that not only is this not the time for the easement, but he cannot do this at this point. He said that they're looking forward to moving the remediation along. He said that he cannot encumber the property. A later date, after the remediation, is the proper time to discuss the easement.

Mike Gallagher, 9 Old Coach Road, Nashua, NH, also, Chair, Conservation Commission. Mr. Gallagher echoed Mr. Porter's comments. He said that they're looking for mitigation for the scope of the project. He said that the Board is aware of the compensatory mitigation that is required by the State, and this project is large enough to require compensatory mitigation, which goes through a process with the State. He said that the State is looking for us to accomplish a few tasks, so the items that the Conservation Commission passed along as potential mitigation projects to DES were the boat remediation at Greeley Park, a public access trail easement along the river, and both of those options were rejected by DES, as not meeting the criteria of their regulations.

Mr. Gallagher said that DES is looking for land preservation, wetland restoration, or wetland creation. He said that they want it to happen in the watershed in which the mitigation is needed. He said that Beazer East has been a pleasure to work with. He said that the Conservation Commission does not know at this time if they'll ever see this project again, especially if they're working outside the 75-foot wetland buffer, that's why the stipulation was put in.

Mrs. MacKay asked if they agree or disagree if the easement should be granted after to the remediation, prior to the remediation, or during the remediation.

Mr. Gallagher that they were told that there is an agreement with a potential buyer, and that they can't do that. He said that this is a contaminated site, and there are public safety issues, and they would certainly want there to be some level of approval and safety as determined from the DES, that the site is safe and able to be developed. He said that the easement is just a piece of paper.

Mrs. MacKay asked that if the Board were to make a condition to the easement, if it would be acceptable so that the easement would be done after the remediation has taken place.

Mr. Gallagher said he believed it would be acceptable to the Conservation Commission, and would be to him as he made the motion. He said as long as it would be discussed at a later date, he'd be happy with that.

Mr. Shaw said that he sees this more of an additional burden put on the applicant. He said that this easement is turning into policy making, which is Planning Board and Board of Alderman. He said that hopefully there will be a site plan with Planning Board involvement, or perhaps Board of Alderman involvement, and didn't feel that the Zoning Board should be voting on.

Mr. Gallagher said that the Conservation Commission is a recommending Board, and really has no teeth or enforcement efforts.

Mr. Currier said that he didn't envision any homes or any development within 250 feet of the shore, due to the Shoreland Protection Act. He asked if the proposed path for the easement would be in the 250 foot, or if the path would have to be outside of the 250 foot area.

Mr. Gallagher said that they anticipate that the trail would be within the 75-foot buffer, and it would be maintained in such a way that it wouldn't be a constructed trail, not paved.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Reppucci said that even though some folks spoke in favor, there were still some concerns, and wanted the applicant to have a chance to address them.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Bollinger said that the mitigation that is being provided in the in-lieu fee adequately compensates for the impacts to the State, and for the City. He said that they're also doing some invasive species control and are going above and beyond. He said that it is their position that now is not the time to consider this easement, the application should be approved without any further conditions.

Mr. Gallagher said that they very much want the project to move forward. He said that City tax revenues have suffered with suppressed land values, and the project should not be delayed, and an agreement in principal should be adequate with the details to be negotiated with the applicant and the Conservation Commission and any other appropriate party.

Mr. Shaw said that he didn't feel that the Zoning Board has the sufficient authority or position to include it into our decision. He said he can't support the stipulation with the easement, but is totally in support of the request.

Mr. Reppucci agreed, it can be addressed later on in the process. This case will be coming back to the Planning Board in the future, and it can be addressed then. He said that the financial matters that they are involved with also has no bearing with the Board as well.

Mr. Currier said that the Conservation Commission is really looking for a path, it's a broad statement. He said the easement in principal doesn't really tie the applicant down very much. He said he's in favor of the easement.

Mrs. MacKay said that the agreement in principal is a good faith statement, it encourages negotiation and mediation, and seems like a good idea. She said that the site is a remediation site, and there is a safety issue, and people shouldn't be onto the site that's in the middle of remediation. She said she supports the project, but not the easement at this time, and leaving out #5 on the Conservation Commission letter. She said the easement doesn't belong now.

Mr. Boucher said that he's in agreement with the project, but cannot support stipulation #5 at this time, he said the stipulation doesn't have any teeth in it.

Mr. Reppucci asked about stipulation #4, and what happens if the Board endorses that one, with the \$211,200 contribution to the ARM Fund, it's a financial piece. He said he's not comfortable with that either, and would like to leave it out - if they have an agreement with that, it's fine, and felt that it's not right for the Board to approve a financial item that has nothing to do with mitigating the site within the 75-foot wetland buffer. He said he'd leave the last two stipulations out.

Mr. Shaw said that is the State's requirement, it's not in the City's control, he said that the mitigation language in #4 is ok, just not the part with the financial numbers.

MOTION by Mr. Reppucci to grant the special exception on behalf of the owner. Mr. Reppucci stated that the use is listed within the Table of Uses, Section 190-112

Mr. Reppucci said it will not create undue traffic congestion, or unduly impair pedestrian safety. He said it will not overload public water, drainage or sewer or other municipal systems.

Mr. Reppucci said that per testimony, all special regulations are fulfilled, and the request will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of residents, actually the opposite will be true.

Mr. Reppucci said that the special conditions, under the March 7, 2016 Conservation Commission letter, it has 5 stipulations, and the Zoning Board is striking the fifth stipulation, and on the fourth stipulation, it is amended to read "Incorporate the mitigation plan dated February, 2016 as well as other mitigation pieces in the report that go above and beyond what the requirements are".

SECONDED by Mr. Shaw.

Mr. Currier said he's in complete agreement with the project moving forward, but is casting a "no" vote due to the easement in principal, and believes it should be included.

MOTION CARRIED 4-1 (Mr. Currier)

3. Stephany C. Houghton (Owner) Warren Houghton (Applicant) 226 Broad Street (Sheet E Lot 108) requesting use variance to allow a massage therapy business in a portion of an existing building. R9 Zone, Ward 1.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Mr. Warren Houghton, 226 Broad Street, Nashua, NH. Mr. Houghton

said he's requesting approval for a massage therapy business. He said that they'd have sports and therapeutic massage services, and float tank services. He said that the float tank is a 5'x8' tub filled with 10 inches of water, and 1,000 pounds of Epsom salt, brought to body temperature.

Mr. Houghton said that the hours of operation would be 9:00am - 9:00 pm, with 1-2 people per hour.

SPEAKING IN FAVOR:

Stephany Houghton, 226 Broad Street, Nashua, NH. Mrs. Houghton said that she is the owner of the building, and expressed her support of the proposed business in the building.

Mr. Currier asked about the parking, and if it's adequate and functioning ok.

Mrs. Houghton said that the Dentist office is mostly Monday - Thursday, early, and the beauty salon is mostly in the evening, and there is plenty of parking. She said all the businesses are small.

Bruce Houghton, 226 Broad Street, Nashua, NH. Dr. Houghton said that the massage therapy services, being close at hand, is a nice adjunct to the building, as all the businesses here look at total health issues, and is in favor.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is a residential zone, but it's been a business for many years, and the request is to add a massage therapy business in a space that used to have a real estate office.

Mr. Currier said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Currier said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

4. Andre E. & Nicole R. Laliberte (Owners) "L" Badger Street (Sheet 86 Lot 55) requesting the following variances: 1) minimum lot area, 5,000 square feet required, 3,293 square feet existing; 2) minimum lot depth, 80 feet required, 63.5 feet existing; and, 3) minimum rear yard setback, 20 feet required, 12 feet proposed - to remove existing garage bays and construct a new single-family house. RC Zone, Ward 6.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Attorney Gerald Prunier, Prunier & Prolman, P.A., 20 Trafalgar Square, Nashua, NH. Atty. Prunier said that Badger Street is between Kinsley Street and West Hollis Street. He said that the lot has a building with five garages in it, and it's been here a long time. He said that the owners would like to demolish the garage building and construct a small single-family home on it, 26'x36' in size. He said that the lot meets the frontage requirements, but the depth of 80 feet is not, it's 63.5 feet.

Atty. Prunier said the house will be in more conformance with the neighborhood, as this is the only garage on the street. He said all the lots have similar sizes as the subject lot. He went over the relevant points of law as stated in the application. He said that the neighbors would prefer the single family home, as it is less traffic, and will be neater.

SPEAKING IN FAVOR:

Letter of support from Mr. Bergeron stating it will not affect other property values in the neighborhood.

Letters of support from four nearby neighbors.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mrs. MacKay to approve the variance application as advertised on behalf of the owner, with all requests considered collectively. Mrs. MacKay said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, especially in light of the neighbors lots are also all nonconforming, and it doesn't seem logical that the Board hold the owner to a higher standard.

Mrs. MacKay said that the proposed use would be within the spirit and intent of the ordinance.

Mrs. MacKay said that it will have no negative impact on surrounding properties. She said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

5. 117 W. Glenwood Street, LLC (Owner) 117 West Glenwood Street (Sheet 132 Lot 31) requesting use variance to construct a paved automobile storage lot. RA Zone, Ward 7.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Attorney Gerald Prunier, Prunier & Prolman, P.A., 20 Trafalgar Square, Nashua, NH. Atty. Prunier said it's the same application as before. He requested that the October 13, 2015 meeting minutes be incorporated by reference.

Atty. Prunier stated that at the last hearing, the whole case was brought forward, but was withdrawn due to an abutters concern, and now, that matter has been discussed with them and it's ok to move forward with the case.

Atty. Prunier said that the lot will have an automotive storage area. He said that most of the area up here will be changing to more commercial use. He said that on the top of Nashua Foreign Motors, some trees have been cut down, and there will be a car wash in that area.

Mr. Currier asked if there will be tractor trailers going to the lot.

Atty. Prunier said it will be a low-impact, low use storage lot. He said that all cars have to come to the dealership first to be examined, and then dropped off there.

SPEAKING IN FAVOR:

Kerry Sienkiewicz, representing Marilyn Sienkiewicz, abutter.
Mr. Seinkiewicz said that they're in favor of the application and asked if the variance be granted.

Mr. Boucher asked if any vehicles would be unloaded from Daniel Webster Highway.

Atty. Prunier said no.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Boucher to approve the variance application as advertised on behalf of the owner. He said it is listed in the Table of Uses, Section 190-15, #43. Mr. Boucher said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Mr. Boucher said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Boucher said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

Mr. Boucher added a special condition that cars cannot be unloaded from transport vehicles to the lot from Daniel Webster Highway, or to the lot itself, or from West Glenwood Street.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

[Board took a 5-min break at this time]

Sandey Ndegwa (Owner) 3 Kennedy Drive (Sheet A Lot 731) requesting the following: 1) special exception to convert an existing single-family home into a two-family home, and; 2) variance for minimum lot area, 10,000 square feet existing, 14,520 square feet required. RA Zone, Ward 7. [TABLED FROM 3-22-16 MEETING]

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

MOTION by Mr. Reppucci to table the case to a date certain of April 26, 2016.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

6. Christopher M. & Sarah K. Ward (Owners) 79 West Groton Road (Sheet D Lot 312) requesting variance to encroach up to 5 feet into the 25 foot required right side yard setback to construct an attached 20'x30' two-story home addition. R40 Zone, Ward 5.

Voting on this case:

Gerry Reppucci

Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Chris Ward, 79 West Groton Street, Nashua, NH. Mr. Ward said that they are proposing to put an addition on the house, on the east side of the property, and the property line cuts in at an angle behind the house. He said that the back right corner of the addition would encroach into the 25-foot setback. He said that the front corner is 37 feet from the side buffer. He said that the abutters are ok with it on the east side.

Mr. Reppucci said that if he were to abide by the setbacks, it would result in the structure being 25% less in size. He said that the incursion is pretty small overall.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, being that the house is situated on the lot, its far on the right side, and it makes sense to expand it on the right hand side and to keep it in concert with the house, there would be the five foot incursion in the right side yard setback.

Mr. Currier said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Currier said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

7. Arnaldo & Viki Zabala (Owners) 15 Hutchinson Street (Sheet 127 Lot 22) requesting the following variances: 1) to exceed maximum driveway width, 24 feet allowed, 20 feet existing, an additional 18 feet proposed (on Brigham Street); and, 2) to permit the construction of a driveway within 50 feet of the intersection of Hutchinson Street and Brigham Street, 25 feet proposed. RB Zone, Ward 4.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Arnaldo Zabala, 15 Hutchinson Street, Nashua, NH. Mr. Zabala said that the driveway would be 18'x18'. He said that they need it for additional parking, as the kids are driving now. He said that their existing driveway is in the front of the house, and its 20'x20', and can't expand to the left of it because there is a big maple tree there. He said that the proposed new driveway would be off of Brigham Street, and it will be 25 feet from the intersection of Hutchinson Street and Brigham Street, where 50 feet is required.

Mr. Reppucci asked if he had brought this up before the DPW Street Department.

Mr. Zabala said not yet.

Mr. Reppucci said that the Street Department will still have to evaluate it, they'll have to determine if it's too dangerous.

Mr. Zabala said that both Hutchinson and Brigham Streets are dead ends, there's only a few houses up there.

Mr. Shaw said that there's no thru-traffic, and felt pretty comfortable with the request.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Shaw to approve the variance application as advertised on behalf of the owner, with both requests considered collectively. Mr. Shaw said that the variances are needed to enable the applicant's proposed use of the property, given the special conditions of the property, the depth of the driveway is limited by the placement of the house relative to the street, and the owner has the need for additional parking, and the driveways will keep cars from parking on the street, also, the concern of the driveway being within 50 feet of the intersection, the Board does not feel it's a significant safety concern considering the nature of the two dead-end streets and the limited number of houses that are beyond the subject property, and there is nothing reasonably feasible for the applicant to do otherwise.

Mr. Shaw said that the proposed use would be within the spirit and intent of the ordinance.

Mr. Shaw said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

8. Josefina & Enrique Ruiz (Owners) 34 Bell Street (Sheet 135 Lot 80) requesting variance to encroach 4 feet into the 25 foot required front yard setback to construct an attached 28'x30' garage with rooms above. RA Zone, Ward 3.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Enrique Ruiz, 34 Bell Street, Nashua, NH. Mr. Ruiz said that the setback is 25 feet from the front property line, but the actual house is 23 feet back. He said that the proposed garage

would keep the same line in the front as the house, and there would be an overhang in the front over the garage doors to prevent water from splashing the water, it would be two feet.

Mr. Reppucci asked if there is going to be access from the new structure into the house.

Mr. Ruiz said that there will be, on the back side where the stairs go up to the second story above the garage, in the back side of the house, it'll be in the inside.

Mr. Reppucci asked what the height of the new structure will be when it's all done.

Mr. Ruiz said it should be noted on the plan.

Mr. Shaw said the drawing is showing two dimensions superimposed on it.

Mr. Reppucci asked if the garage is going to be taller than the house.

Mr. Ruiz said yes, the house is one story tall, and the garage will have a story on top of it.

Mr. Reppucci asked who is designing and building the addition.

Mr. Ruiz said that he is, he's a carpenter.

Mr. Falk said that the Code allows 35 feet in height, and no more than 2½ stories.

Discussion ensued on what the proposed structure would look like.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mrs. MacKay to approve the variance application as advertised on behalf of the owner. Mrs. MacKay said that the

variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, being that the proposed garage addition will be kept in line with the existing foundation of the house.

Mrs. MacKay said that the proposed use would be within the spirit and intent of the ordinance.

Mrs. MacKay said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner, as they need additional living space.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

9. One Chestnut Street Limited Partnership (Owner) First Sign & Corporate Image, Inc. (Applicant) 1 Chestnut Street (Sheet 80 Lot 1) requesting variance to exceed maximum wall sign area, 100 square feet allowed, 200 square feet existing, two additional wall signs at 375.5 square feet each proposed for east and west elevations for a total of 951 square feet. GI/MU Zone, Ward 4.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Mariellen MacKay
Rob Shaw

Scott Aubertin, First Sign & Corporate Image, Inc., Manchester NH. Mr. Aubertin said that the proposed signage will help with additional visibility now that the Broad Street Parkway is open and make the building more visible. He said that they have an architecturally challenged building, it was built as a card factory, and it doesn't look like a professional building, it's not terribly attractive. He said that they want to give the building an identity, by giving the building address an identity and make it attractive and hopefully bring the occupancy up, and have it realize its best use with a professional look.

Mr. Aubertin said that it sounds excessive, but feel that the proposed signage is appropriate for the overall size of the building. He said the plan is to identify the building on both the front and back, and the back is oriented towards the Parkway, which gives additional challenge, as the address is 1 Chestnut Street.

Mr. Reppucci said that the proposed signs are gigantic, compared to what is allowed there. He asked what brought them to the conclusion that they need a sign this size.

Mr. Aubertin said for the back of the building, they want to give the building an identity, and so you'd see it coming down the Parkway. He said that the proposed signs will put the building on the map and make it more visible, and recognize it.

Mr. Aubertin said that due to the visibility, the proposed signs have the best shot at not being lost on the building wall. He said that they don't want to put the money and energy into signs that won't enhance the building and make it marketable.

Mr. Currier said that his fear is that the City is engaged in preserving the chimney, Franklin Street is also being brought up, so this has been a recent focus. He said he's nervous about such a huge sign. He said that on the front sign, he didn't think it would be seen from Main Street, only when you're going around the Walnut Street circle. He said he questions both the front and the back signs, and needs convincing that this isn't going in the opposite way of what the City plans.

Mr. Aubertin said that it sounds big, but the Storage signs are one hundred square feet each, so that's 200 square feet, and each new proposed sign is 375 square feet in area. He said that they're trying to make the area more visible and more attractive and more professional.

Mr. Currier asked if there is still storage in this building, or more of a professional condo office use.

Mr. Aubertin said that they've always had the storage element there, and there are professional business components there too. He said that there are a wide range of businesses in the building, such as incubator space. He said that the owner wants to market the building with one name, not a lot of individual names on it. He said that the storage facility is the only one

that has a sign on the building, and it's been there for a very long time. He said they want the building to be known as One Chestnut Street Business Center.

Mr. Shaw asked if there was any consideration for removing the storage sign.

Mr. Aubertin said that they didn't discuss that as an option. He said the owner has to address that.

SPEAKING IN FAVOR:

Michael Tichnor, building owner. Mr. Tichnor said that removing the two self-storage signs is not an option, they're long term leases.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Reppucci said he can't support this, the signs are gigantic. He said maybe it's considerate of the Board to possibly entertain tabling this case. He said he wants to see a presentation on what is factual on what the requirement is. He said he'd like to see something that shows what is readable from the Parkway for the signs to be recognized, that way, if it states that there is a certain need for the signs to be that big in order to be recognized, if the data shows that it needs to be a certain size, that would help determine why the signs seem to be so excessive.

Mr. Shaw said that he has real concerns about supporting this at these dimensions. He said there may have been an expectation by the applicant that this could be scaled back. He said that perhaps the east and west elevations may even have different needs as far as the signage. He said he'd like to know what sizes were approved for the Millyard Office Park, as the scale and comparison would be valuable to know.

Mrs. MacKay said she likes the idea of getting more information, and would support tabling the request, and would like a visual of what signs would look like on the building.

Mr. Currier said that perhaps there's merit in a sign that big, but is not convinced there is. He said he'd support a table to review other options.

Mr. Reppucci said he believes it's considerate of the Board to table the case instead of denying it. He said he wants to see data as to why a larger sign is required, like how far you have to be away to read the sign. He said he needs more proof to justify the size of the proposed signs.

Mr. Falk said that moving forward, with the amount of information that the applicant needs to provide, it's more likely that they come back at the first meeting in May.

MOTION BY Mr. Reppucci to suspend rules to ask the applicant if the first meeting in May is ok with them, May 10th.

MOTION CARRIED UNANIMOUSLY 5-0.

Mr. Falk said that staff would need all the information before May 3rd in order to send it out in the package.

Mr. Aubertin said he thinks that's reasonable, and can do that. He said that they'll come back with more information, and will probably scale it back a little bit.

MOTION by Mrs. MacKay to table the request to the May 10, 2016 meeting.

SECONDED by Mr. Reppucci.

Mr. Shaw said that the public hearing needs to be opened up again.

MOTION CARRIED UNANIMOUSLY 5-0.

Ms. Vitale joined the Board at this time, and will be voting on Case #10.

10.CREG-Temple Street, LLC (Owner) First Sign & Corporate Image (Applicant) 30 Temple Street (Sheet 33 Lot 31) requesting the following variances: 1) to exceed maximum number of ground signs, one permitted, two proposed; and 2) to encroach 22 feet into the 25 foot minimum distance to an

**intersection to replace an existing sign at southern
driveway entrance. D-1/MU Zone, Ward 4.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Rob Shaw

Scott Aubertin, First Sign & Corporate Image, Manchester, NH.

Kim Reagan, R.J. Finlay Company, 30 Temple Street, representing
the owner.

Mr. Aubertin said that they have an approval for a new ground sign at the top of the property by the crest of the hill, and will be removing the large silver triangular sign at the entrance off of Temple Street. He said that the new sign will be replacing the large triangular sign.

Mr. Aubertin said that they're proposing the second sign which would have all the tenants names on it, and it will be in place of the big silver sign at the corner. He said it's about a third of the size of the existing sign, and its focus is to give the entire building a listing of who's in there. He said the request is actually two variances, it's to have two ground signs and to encroach into the 25 foot intersection.

Mr. Reppucci said that the sign that's going to be encroaching is already there, and will be replaced with the new sign.

Mr. Falk said that although the new sign would be encroaching into that 25 foot setback to the intersection, it would be a smaller sign, and will probably be placed just a little bit further back than the existing triangular sign, so it'll be a little less nonconforming, it'll still be in that little landscaped island.

Mr. Aubertin said it will be placed back as far as they can push it, with the existing sign, with snow removal, there was no consideration of that. He said with it back a little bit more, it'll give vehicles a little more time to read the sign.

Mr. Shaw asked if there was any consideration of placing the sign in the island after you enter the driveway.

Mr. Aubertin said that there really needs to be the directory at the entrance, and it'll give people that little bit of information at the intersection, as opposed to having them pull into the parking lot. He said it provides a little more information earlier so that they can turn in there.

Ms. Reagan said that they did look at alternatives of putting it in the island, or up next to the building. She said this sign will work in tandem with the other sign at the corner to both identify the property and individual tenants. She said that the sign that's there now has been there for 36 years, it's just too big and cumbersome, the proposed sign will be much smaller and sleeker to bring the building up to date.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Shaw said he sees the request as a positive one, there are at least five different streets that are right around this property, it's a confusing intersection area in general, so this should help.

Mr. Currier said that he didn't think that there would be a view or visibility problem at the intersection, because at the nose of the site, it's a strange intersection with one-way streets, and saw it as a net improvement.

Ms. Vitale said there's already an encroachment there, and this one will be somewhat less per testimony. She said she didn't see any issues with the case for both signs.

Mr. Reppucci thought it would be better to have the sign inside on the island, and have an additional sign at the corner with the address on it, at least when people are reading all the little slides, they're off the street. He thought that may be a much safer setup instead of having people read thirty panels right at the entrance.

Mr. Shaw said that would entail increasing the variance request, and it would be increasing the nonconformity with the third sign.

Mr. Reppucci said he thought it would be better to do it that way, and it seems as if the owners have considered many options, and if they want to have their application stand as is, he'd support it.

Mr. Boucher said he'd support the application as it stands.

MOTION by Mr. Shaw to approve the variance application as advertised on behalf of the owner, with both requests considered together. Mr. Shaw said that the variance is needed to enable the applicant's proposed use of the property, for the placement of the signs, one is just a replacement of an existing sign with a slightly less incursion to the intersection, and the second sign serves as identification to the property.

Mr. Shaw said that the proposed request would be within the spirit and intent of the ordinance.

Mr. Shaw said that it will have no negative impact on surrounding properties. He said it is not contrary to the public interest, and substantial justice is served to the owner.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REGIONAL IMPACT:

The Board determined that there are no cases of Regional Impact.

REHEARING REQUESTS:

None.

MINUTES:

3-8-16:

Zoning Board of Adjustment

April 12, 2016

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MOTION by Mr. Currier to approve the minutes, with a minor change on Page 2 as discussed, waive the reading, and place them in the permanent file.

SECONDED by Mrs. MacKay.

MOTION APPROVED UNANIMOUSLY 5-0.

ADJOURNMENT:

Mr. Reppucci called the meeting closed at 9:55 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing